

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

The agency identified below in box 1 provides notice of proposed rule change pursuant to *Utah Code* Sections 63-46a-4. Please address questions regarding information on this notice to the agency. The full text of all rule filings is published in the *Utah State Bulletin* unless excluded because of space constraints. The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:	
Utah Admin. Code ref. (R no.):	R156-1-102a	Time filed:	
Changed to Admin. Code Ref. (R no.):			

1.	Agency:	Commerce/Division of Occupational and Professional Licensing		
	Room no.:			
	Building:	Heber M. Wells Building		
	Street address 1:	160 East 300 South		
	Street address 2:			
	City, state, zip:	Salt Lake City UT 84111-2316		
	Mailing address 1:	PO Box 146741		
	Mailing address 2:			
	City, state, zip:	Salt Lake City UT 84114-6741		
	Contact person(s):			
	Name:	Phone:	Fax:	E-mail:
	F. David Stanley	801-530-6628	801-530-6511	dstanley@utah.gov

(Interested persons may inspect this filing at the above address or at DAR between 8:00 a.m. and 5:00 p.m. on business days.)

2.	Title of rule or section (catchline):
	Global Definitions of Levels of Supervision
3.	Type of notice:
	New ___; Amendment XX; Repeal ___; Repeal and Reenact ___
4.	Purpose of the rule or reason for the change:
	The Administrative Rules Review Committee considered the Division's proposed rule amendments at their October 23, 2007 meeting and voted unanimously for the Division to move forward in enacting the proposed amendments.
5.	This change is a response to comments from the Administrative Rules Review Committee.
	Yes XX; No ___
6.	Summary of the rule change:

	<p>New section 102a is being added to implement a global definition of levels of supervision in the Division's umbrella rule, R156-1. The proposed amendments require that, except as otherwise provided by statute or rule, all unlicensed personnel specifically allowed to practice a regulated occupation or profession, and regulated license classifications required to practice under supervision must practice under an appropriate level of supervision defined in the global definition as specified by the licensing act or licensing act rule governing each occupation or profession. The proposed amendments define three levels of supervision: "direct supervision" and "immediate supervision", "indirect supervision", and "general supervision". The proposed amendments also define the term "supervising licensee". The proposed amendments make it clear that it does not apply when another occupational/professional statute or rule provides otherwise. In other words, the proposed amendments set the standard if the term is used in statute or rule, but is not defined. However, where it is defined, the proposed amendments are inapplicable. It is hoped that over time Division statutes and rules will migrate toward the global definition and hence better consistency.</p>
7.	<p>Aggregate anticipated cost or savings to:</p> <p>A) State budget:</p> <p>The Division will incur minimal costs of approximately \$200 to reprint the rule once the proposed amendments are made effective. Also having better definitions for supervision will enable better regulation by the Division and allow for greater protection of public health, safety and welfare. The proposed amendments could trigger a nominal increase in complaints and investigations, but the impact cannot be quantified. The Division expects all costs and increases can be handled within its existing budget.</p> <p>B) Local government:</p> <p>Proposed amendments do not apply to local governments as they are not involved in this regulatory arena. Therefore, no costs or savings are anticipated.</p> <p>C) Small businesses (fewer than 50 employees) AND persons other than businesses:</p> <p>Small business: If supervision standards are increased for a regulated occupation or profession, small business owners could see an increase in costs to meet the new standards. However, these costs cannot be quantified due to a varying number of factors affecting the costs.</p> <p>Other persons: If business owners see an increase in costs to meet an increased supervision standard, those costs could be passed through to the public. However, any increase in costs to the public cannot be quantified due to such a varying number of factors affecting the increased costs.</p>
8.	<p>Compliance costs for affected persons ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization or any character other than an agency):</p> <p>If costs are increased to meet an increased supervision standard, it would impact the revenue stream of business owners. This in turn could affect the number of employees and salary compensation, as well as the cost of services provided to the public. However, any exact amount of these costs cannot be quantified due to such a varying number of factors affecting the increased costs.</p>
9.	<p>Comments by the department head on the fiscal impact the rule may have on businesses:</p> <p>There appears to be no discernable fiscal impact to businesses expected with this rule filing which establishes definitions for levels of supervision for occupations and professions regulated by the Division. Francine A. Giani, Executive Director</p>
10.	<p>This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):</p> <p>Section 58-1-308 and Subsections 58-1-106(1)(a) and 58-1-501(4)</p>
11.	<p>This rule adds, updates, or otherwise changes the following titles of materials incorporated by references (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank):</p>

12.	The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the <i>Utah State Bulletin</i> . See Section 63-46a-5 and Rule R15-1 for more information.)		
	A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):		12/31/2007
	B) A public hearing (optional) will be held:		
	on (mm/dd/yyyy):	at (time):	At (place):
13.	This rule change may become effective on (mm/dd/yyyy):		01/07/2008
	NOTE: The date above is the date on which this rule MAY become effective. It is <i>NOT</i> the effective date. After the date designated in Box 12(A) above, the agency <i>must</i> submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.		
14.	Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "NASA") or proper nouns (e.g., "Medicaid")):		
	diversion programs	licensing	
	occupational licensing	supervision	
15.	Attach an RTF document containing the text of this rule change (filename):		R156-1.pro
To the agency: Information requested on this form is required by Sections 63-46a-4, 5, 6, and 10. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> , and delaying the first possible effective date.			
AGENCY AUTHORIZATION			
Agency head or designee, and title:		F. David Stanley, Director	Date (mm/dd/yyyy): 10/31/2007

R156. Commerce, Occupational and Professional Licensing.

R156-1. General Rules of the Division of Occupational and Professional Licensing.

R156-1-102a. Global Definitions of Levels of Supervision.

(1) Except as otherwise provided by statute or rule, the global definitions of levels of supervision herein shall apply to supervision terminology used in Title 58 and Title R156, and shall be referenced and used, to the extent practicable, in statutes and rules to promote uniformity and consistency.

(2) Except as otherwise provided by statute or rule, all unlicensed personnel specifically allowed to practice a regulated occupation or profession are required to practice under an appropriate level of supervision defined herein, as specified by the licensing act or licensing act rule governing each occupation or profession.

(3) Except as otherwise provided by statute or rule, all license classifications required to practice under supervision shall practice under an appropriate level of supervision defined herein, as specified by the licensing act or licensing act rule governing each occupation or profession.

(4) Levels of supervision are defined as follows:

(a) "Direct supervision" and "immediate supervision" mean the supervising licensee is present and available for face-to-face communication with the person being supervised when and where occupational or professional services are being provided.

(b) "Indirect supervision" means the supervising licensee:

(i) has given either written or verbal instructions to the person being supervised;

(ii) is present within the facility in which the person being supervised is providing services; and

(iii) is available to provide immediate face-to-face communication with the person being supervised as necessary.

(c) "General supervision" means that the supervising licensee:

(i) has authorized the work to be performed by the person being supervised;

(ii) is available for consultation with the person being supervised by personal face-to-face contact, or direct voice contact by telephone, radio or some other means, without regard to whether the supervising licensee is located on the same premises as the person being supervised; and

(iii) can provide any necessary consultation within a reasonable period of time and personal contact is routine.

(5) "Supervising licensee" means a licensee who has satisfied any requirements to act as a supervisor and has agreed to provide supervision of an unlicensed individual or a licensee in a classification or licensure status that requires

supervision in accordance with the provisions of this chapter.

KEY: diversion programs, licensing, occupational licensing, supervision

**Date of Enactment or Last Substantive Amendment: [~~June 19,~~
~~2006~~]2008**

Notice of Continuation: March 1, 2007

**Authorizing, and Implemented or Interpreted Law: 58-1-
106(1) (a); 58-1-308; 58-1-501(4)**